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NOTICE OF ADOPTED RULES

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**PART 325**  
**ADVANCE DEPOSIT WAGERING**

**Section**

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**Section 325.10 Definitions**

"Account" means an account for advance deposit wagering with a specific identifiable record of deposits, wagers, and withdrawals established by an account holder and managed by the advance deposit wagering licensee.

"Account holder" means an individual who successfully completed an application and for whom the advance deposit wagering licensee has opened an account.

"Advance deposit wagering" or "ADW" means a method of pari-mutuel wagering that is permissible under the Interstate Horseracing Act (15 USC § 3001 et seq.) and in which an individual may establish an account with an entity licensed by the Board, deposit money into the account, and use the account balance to pay for pari-mutuel wagers in person, by telephone, or through other electronic media including, but not limited to, the internet.

"Advance deposit wagering licensee" or "ADW licensee" means a person licensed by the Board to conduct advance deposit wagering. An advance deposit wagering licensee shall be an organization licensee or a person or third party who contracts with an organization licensee in order to conduct advance deposit wagering.

"Applicant" means an individual who has submitted an application to establish an ADW account with an ADW licensee.

"Confidential information" includes, but is not limited to:

The amount of money credited to, debited from, withdrawn from, or present in any particular account holder's account;

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The amount of money wagered by a particular account holder on any race or series of races;

The account number and secure personal identification code of a particular account holder;

The identities of particular entries on which the account holder is wagering or has wagered; and

Unless otherwise authorized by the account holder, the name, address, and other personal information in the possession of the ADW licensee or organization licensee that would identify the account holder to anyone other than the Board or the advance deposit wagering licensee.

"Credits" means all inflow of money to an account.

"Debits" means all outflow of money from an account.

"Deposit" means a payment of money by cash, check, money order, credit card, debit card, or other electronic funds transfers made by an account holder to the account holder's account.

"Individual" means any natural person at least 18 years of age, but does not include any corporation, partnership, Limited Liability Company, trust, estate or other legal entity.

"Licensee" means an individual organization licensee, an inter-track wagering licensee, an inter-track wagering location licensee, or an advance deposit wagering licensee, as this Part requires.

"Principal residence address" means the street address identified by an applicant or a current account holder as that individual's residential address, as that address may be verified by the advance deposit wagering licensee.

"Proper identification" means a form of identification accepted in the normal course of business to establish that the person making a transaction is an account holder.

"Terms of agreement" means the agreement, approved by the Board, between an advance deposit wagering licensee and an account holder that includes but is not limited to the terms and conditions for deposits, credits, debits, withdrawals and the opening and closing of accounts.

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"Withdrawal" means a payment of money from an account by the ADW licensee to the account holder when properly requested by the account holder.

**Section 325.20 License to Conduct Advance Deposit Wagering**

An organization licensee or a person or third party who contracts with an organization licensee in order to conduct ADW shall be licensed by the Board prior to accepting advance deposit wagers from Illinois residents.

- a) No ADW licensee or organization licensee may place or caused to be placed any wagering terminal or electronic device that facilitates the placement of an advance deposit wager anywhere other than in a licensed wagering facility as authorized in Section 26(g) of the Illinois Horse Racing Act of 1975 [230 ILCS 5/26(g)].
- b) The advance deposit wagering license application shall include:
  - 1) If a third party is utilized, a copy of the contract(s), including the consent of the horsemen's association, to provide ADW services by an ADW operator licensed by the Board to an organization licensee licensed by the Board;
  - 2) A copy of all current ADW, pari-mutuel wagering, and gaming licenses regardless of jurisdiction;
  - 3) A list of all totalisator hub and ADW personnel processing Illinois wagers containing the name, position, job location, and licensed jurisdiction for each person (if applicable);
  - 4) A list of all officers, directors, partners, and shareholders with a 5% or greater share of ownership or beneficial interest;
  - 5) Full disclosure of all fees and other financial considerations relating to the contract with the organization licensee;
  - 6) A detailed description of procedures to allow the Board prompt access to reports, logs, wagering transaction detail, and customer account detail, in printed form or standard electronic format approved by the Board;
  - 7) A detailed description of systems and procedures used to validate the identity, age, and legal residency of account holders and procedures validating the legality of wagers accepted;
  - 8) A detailed description of procedures to allow the Board prompt access to all records relating to customer

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- identification, age, and residency in hard copy or standard electronic format acceptable to the Board;
- 9) A detailed description of procedures to allow the Board prompt access to customer account detail in hard copy or an electronic format acceptable to the Board for customers who are Illinois residents;
  - 10) A description of the secure retention procedures of all records related to wagering and customers accounts for a period of not less than three years or a period specified by the Board;
  - 11) A copy of account holder rules/terms governing the acceptance and management of accounts, and a copy of any amendments in the rules at least 10 days prior to the effective date;
  - 12) A bond from a surety company admitted in the State of Illinois or other form of financial security in the amount of \$500,000; and
  - 13) A chart illustrating the organizational structure, including reporting lines.
- c) All employees working on behalf of the ADW licensee shall either be licensed by the Board or licensed by the state where the ADW center is located. In addition, key personnel, persons that have the authority to develop or administer policy or to make discretionary decisions, shall be licensed by the Board.
  - d) An ADW licensee shall utilize or contract with a Board approved and licensed totalisator system.
  - e) An ADW licensee must operate and communicate with the totalisator system in such a way as not to provide or facilitate a wagering advantage based on access to wagering information and methods of processing of wagers by ADW account holders relative to persons who wager at racetracks or off track wagering facilities.

**Section 325.30 Advance Deposit Wagering Rules**

- a) The ADW licensee shall notify the patron, at the time of opening the account, of any rules the ADW licensee has made concerning deposits, withdrawals, average daily balance, user fees, interest payments and any other aspect of the operation of the account. The ADW licensee shall notify the patron whenever the rules governing the account are changed, such notification occurring before the new rules are applied to the account and including the opportunity for the patron to close or cash-in the account. The patron shall be deemed to have accepted the rules of account operation upon establishing and maintaining a balance on the account.
- b) The ADW licensee reserves the right at any time and for any reason to

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refuse to open a patron account, to accept a wager, to accept a deposit, or to close an account.

- c) Each account holder shall provide such personal information as the ADW licensee and the Board require by mail, email or on-line application, including an address to which communications are to be delivered. The ADW licensee shall provide each account holder, an account number, username and password to be used by the patron to confirm the validity of every account transaction. Each account holder shall be responsible for keeping his or her username and password confidential and shall be deemed to be aware of the status of that account at all times and responsible for all activity on his or her account. Wagers shall not be accepted that would exceed the available balance of that account. Any account not updated when a transaction is completed shall be inoperable until the transaction is posted and the account balance updated.
- d) Account deposits may be made in cash, check, money order, credit card, debit card, other electronic fund transfers, or any other means if permitted by the ADW. As allowable by State and Federal law, deposit holding periods will be permitted by the ADW licensee. A receipt for the deposit, in hard copy or electronic format, shall be issued to the account holder, but does not need to reflect the current account balance.
- e) When a customer account is entitled to a payout or refund, monies shall be credited promptly to the respective accounts. The account holder shall verify proper credits and notify the ADW licensee pursuant to the terms of the customer agreement. Unresolved disputes may be forwarded to the Board by the ADW licensee or the account holder. No claim shall be considered by the Board unless submitted in writing and accompanied by supporting evidence.
- f) Account Operation:
  - 1) The ADW licensee must maintain complete records of every deposit, withdrawal, wager and winning payout. These records shall be made available to the Board upon request.
  - 2) For account wagers made by telephone, the ADW licensee shall make a voice or data recording of the entire transaction and shall not accept any wager if the voice or data recording system is inoperable. Voice and data recordings shall be retained for not less than six months and shall be made available to the Board upon request. In the case of a wager made by telephone, the voice or data recording of the confirmation of the transaction shall be deemed to be the actual wager, regardless of what was recorded by the pari-mutuel system.
  - 3) The ADW licensee shall provide for the account holder's review and verification of a wager before it is accepted by the ADW. Neither the account holder nor the ADW licensee shall change a wager after the account holder has reviewed and verified the

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wager. All wagering cancellation policies shall be approved by the State Director of Mutuels.

- g) The ADW licensee may close any account with an insufficient balance or dormancy pursuant to the terms of the customer agreement. The ADW licensee shall refund the remaining balance of the closed account to the account holder.

**Section 325.40 Requirements to Establish an Advance Deposit Wagering Account**

- a) Accounts shall be established in person, by mail, telephone or other electronic media before any wagering shall be conducted. An account shall only be established in the name of an individual and is non-transferable.
- b) Any individual prohibited from wagering by the Board shall be prohibited from establishing an account or placing a wager.
- c) The information required to establish an account shall include:
  - 1) Account holder's full legal name.
  - 2) Principal residence address.
  - 3) Telephone number.
  - 4) Social security number.
  - 5) Identification or certification to prove the account holder is at least 18 years of age.
  - 6) Any other information required by the ADW licensee.
- d) The ADW licensee shall employ electronic verification with respect to each account holder's name, principal residence address, date of birth and social security number at the time of account establishment by a Board-approved, independent, credit reference service or other verification service as approved by the Board. If the verification process fails, using procedures approved by the Board, the ADW licensee may accept physical proof of age, identity and residency through actual documentation.
- e) The ADW licensee may refuse to establish an account if it is found that any of the information supplied is false incomplete or for any other reason the ADW deems appropriate. An ADW licensee may close accounts for violation of its terms of agreement or any other reason it deems appropriate.

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- f) An ADW licensee may cease wagering on any particular race or racetrack.
- g) The account holder shall designate a means of personal identification verification to use to access his or her account.
- h) An ADW licensee shall designate an account number for each account. The ADW licensee shall inform the account holder of the assigned account number and provide a copy of its ADW procedures, terms and conditions as well as any information that pertains to the operation of the account.
- i) The ADW licensee shall comply with Internal Revenue Service (IRS) requirements for reporting and withholding proceeds from advance deposit wagers by account holders and shall send to account holders subject to IRS reporting or withholding a Form W2-G summarizing the information for tax purposes following a winning wager being deposited into an account. Upon written request, the ADW licensee shall provide account holders with summarized tax information on advance deposit wagering activities.
- j) Only Illinois residents who have accounts with an ADW licensee licensed by the Board may engage in advance deposit wagering.

**Section 325.50 Powers of the Board**

- a) The Board shall have unrestricted access to all records and financial information of the ADW licensee, including all account information. This information shall be made available to the Board, by the ADW licensee, upon notice from the Board to the extent that disclosure is not expressly prohibited by law. Board access to and use of information concerning wager transactions and ADW customers shall be considered proprietary and shall not be disclosed publicly except as may be required by law. This information may be shared for multi-jurisdiction investigative purposes. An ADW licensee shall report to the Board any known or suspected rule violations by any person involving ADW and cooperate in any subsequent investigations.
- b) The following reports shall be available for inspection by the Board upon request:
  - 1) ADW handle;
  - 2) Reports for taxation purposes;
  - 3) Customer complaints;

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- 4) List of active accounts;
- 5) List of excluded persons;
- 6) List of account holders;
- 7) Log of all system accesses; and
- 8) List of all deposits, withdrawals, wagers and winning payouts.

**Section 325.60 Organization Licensee Simulcast Signals and Commission Fees**

- a) All advance deposit wagering licensees shall televise or broadcast or display via the internet the simulcast signal of the live racing of all organization licensees and accept wagers on the live racing of all organization licensees.
- b) Advance deposit wagering licensees shall not be permitted to accept out-of-state wagers on any organization licensee's live racing signal without the approval and consent of the organization licensee providing the signal.
- c) The Board finds that as a means to maximize and support the highest simulcast commission rates charged to out-of-state entities by all organization licensees and therefore maximize revenues to horsemen's purse accounts and organization licensees, and to establish commission and purse splits consistent with existing wagering facility revenue divisions, all organization licensees shall provide their live racing simulcast signal to all advance deposit wagering licensees for a simulcast commission fee not to exceed 8%.
- d) An advance deposit wagering licensee's interstate commission fee shall not exceed 9% except for Grade 1 thoroughbred races and harness races with purses of \$200,000 or more.

**Section 325.70 Interstate Simulcast Signals**

The Board finds that, as a means of maximizing revenues to the State, horsemen's purses, and organization licensees, the Board may prohibit any advance deposit wagering licensee from receiving a signal from any out-of-state racetrack if it finds that another Illinois advance deposit wagering licensee has been unreasonably denied the same interstate simulcast signal.



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**Section 325.80 Anti-Competitive Practices**

- a) No licensee shall engage in any anti-competitive practices in the process of contracting for the right to receive or send any interstate simulcast signal or wagering on such signal. For the purpose of this Part, anti-competitive practices shall include, but not be limited to:
  - 1) any agreement to pay excessive or unreasonable fees for the right to receive an interstate signal. In determining whether a fee is excessive or unreasonable, the Board shall consider prevailing rates paid for comparable signals in the past, and whether any commonality of ownership or revenue sharing exists, partially or wholly, between the Illinois licensee and the entity receiving the fees; or
  - 2) any agreement, combination, trust or joint enterprise with any other track or entity in which multiple interstate signals are bundled together for the purpose of securing an excessive or unreasonable fee for one or more signals in the group in exchange for the right to receive any of the signals in the group; or
  - 3) any other activity designed to artificially inflate prices beyond reasonable market rates.
- b) Licensees in violation of this Part shall be subject to civil penalties up to \$10,000 per occurrence and/or license suspension or revocation.

SOURCE: Emergency rule adopted at 33 Ill. Reg. 12860, effective September 2, 2009, for a maximum of 150 days; adopted at 34 Ill. Reg. 539, effective January 1, 2010; emergency amendment at 34 Ill. Reg. 581, effective January 1, 2010, for a maximum of 150 days; emergency amendment repealed by emergency rulemaking at 34 Ill. Reg. 2761, effective February 3, 2010 for the remainder of the 150 days; emergency amendment at 34 Ill. Reg. 2823, effective February 3, 2010 for a maximum of 150 days; emergency amendment expired July 2, 2010, amended at 34 Ill. Reg. 10517, effective July 12, 2010; emergency amendment at 34 Ill. Reg. 13558, effective September 2, 2010, for a maximum of 150 days; amended at 35 Ill. Reg. effective January 1, 2011.